

Appl. No.10/642,716  
Amendment July 20, 2005  
Reply to Office action of April 22, 2005

REMARKS

Applicant appreciates the opportunity to have discussed the present application with Examiner Purol on July 12, 2005 during a telephone interview. In the interview, the applicant discussed the claimed invention having an absence of any elements that would unite the folding panels to horizontal members that would span above and/or below the opening, and the inclusion of limitations that the claimed invention had only vertically-oriented frames, which applicant feels distinguishes the claimed invention from Bruneau. This amendment includes these limitations and cites support within the disclosure, as originally filed. It is applicant's position that the claimed invention is now in a position for allowance.

Claim 3 has been canceled, without prejudice. Claims 1 and 7 have been amended, to more clearly claim the structure of the single and double panel assemblies. The amendments to claims 1 and 7, respectively, find support in Figs. 1 and 2, as they were originally filed, wherein these figures clearly illustrate that the instant invention has no horizontal frame members. Thus, no new matter is introduced by these amendments. Claims 1, 2, and 4-14 are pending in the application. Favorable reconsideration of this application is respectfully requested in light of the above amendment and the following detailed discussion.

Claim Rejections – 35 U.S.C. § 112

1. The Examiner has rejected claims 5 and 11 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

The Examiner asserts that claims 5, 11 contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Examiner concludes that it is not known the “structure” and the “software/hardware” interface which comprises the computer controlled display.

Applicant, however, asserts that clearly the structure of the electronic displays of dependent claims 5 and 11 is that of folding panels, as the limitations of the respective independent claims 1 and 7 teach and as Figs. 1 and 2 illustrate.

Regarding the software and the hardware of the computer controlled displays, it is applicant's position that this is a very mature field of art (i.e., going back over 70 years, see, for example, Exhibit A). The applicant himself interfaced software and hardware of computer controlled displays as far back as the early 1970's (i.e., over 30 years ago). It is the applicant's position that applying an electronic display to the panels of claims 5 and 11 is similar to applying posters and physical items to the folding panels, since these means have been known for many years.

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For all the reasons described in the preceding paragraphs, the applicant respectfully submits that claims 5 and 11 meet all the requirements of 35 U.S.C. § 112, first paragraph. Accordingly, reconsideration and withdrawal of the rejection of claims 5 and 11, and allowance thereof, are respectfully requested.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 1, 2, 6-9, 12, and 13 under 35 U.S.C. § 103(a) as being anticipated by Bruneau (U.S. 4,431,044, hereinafter Bruneau). The Examiner asserts that Bruneau discloses the claimed folding panel assembly including a plurality of folding panels 6 hingedly mounted to vertically-oriented frames, first and second locking bars 30, 31.

The Examiner notes that the claims have been amended to recite that the folding panel assembly has an absence of any elements that would unite the folding panels to horizontal members that would span above and/or below the opening. The Examiner concludes that, however, it is a well settled issue that to eliminate an element together with its function would have been obvious to one of ordinary skill in the art.

Applicant, however, has amended each of the independent claims 1 and 7, from which, respectively, claims 2 and 6, and claims 8, 9, 12, and 13 directly or indirectly depend, to include the limitation of only vertically-oriented frames.

After studying Bruneau, the applicant can find nowhere in Bruneau where at least these limitations are taught or suggested. Instead, applicant finds that the Bruneau patent requires "a chassis or a fixed frame consisting of an upper runner 1 ... and a lower runner 2", which are horizontal frame members (see, for example, column 3, lines 18-25, and Fig. 1). These requirements are found further at column 6, lines 15-19, where it states that horizontal brackets 40, 41 are situated as close as possible to the lintel and ground in order to resist the insertion of a lever toward the interior of panel 6.

Applicant asserts that Bruneau is directed to presenting as few cracks and gaps as possible in an opening, in order to prevent an assailant from "forcibly entering" a building (see, for example, column 1, lines 15-34). The Examiner, however, implies that the subject invention is the Bruneau without horizontal member.

However, by removing Bruneau's horizontal members, the resulting panel assembly does not satisfy Bruneau's requirement to prevent forcible entry.

Clearly, the subject invention is a different invention than Bruneau, since it cannot prevent forcible entry. Instead, the subject invention provides privacy (see, for example, page 2, lines 11-13 and page 9, lines 18-20) by blocking or allowing access through an opening, depending on whether the panels are extended or compressed (see, for example, Figs. 1 and 2). It is not a requirement of the subject invention to prevent forcible entry.

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Specifically regarding claims 7-9 and 12-13, the Examiner continues to not address the fact that Bruneau does not teach a first plurality of folding panels and a second plurality of folding panels, which are limitations of claims 7-9 and 12-13. At least on that basis, claims 7-9 and 12-13 are patentable over Bruneau, and the rejections of claims 7-9 and 12-13 should be withdrawn.

Therefore, the applicant respectfully submits that independent claims 1 and 7 of the claimed invention are patentable over Bruneau, as the inventions defined thereby are not suggested within Bruneau, nor is there any suggestion or motivation to modify this reference's teachings in order to teach or suggest the claimed limitations, as required by 35 U.S.C. § 103. Consequently, the applicant respectfully submits that claims 1 and 7, claims 2 and 6, which depend from claim 1, and claims 8, 9, 12, and 13, which depend from claim 7, should be allowed over Bruneau. Accordingly, favorable reconsideration of claims 1, 2, 6-9, 12, and 13 is respectfully requested.

2. The Examiner has rejected claims 4 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Bruneau in view of Dykes (U.S. 5,598,667, hereinafter Dykes). The Examiner admits that Bruneau does not set forth a decorative or descriptive panel. However, the Examiner asserts that Dykes discloses a folding panel assembly comprising decorative or descriptive panels 30a-d, wherein, to incorporate this teaching into the folding panel assembly of Bruneau for the purpose of aesthetics would have been obvious to one of ordinary skilled in the art.

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Applicant, however, asserts that since claims 4 and 10, respectively, depend directly from claim 1 and 7, then claims 4 and 10 are patentable at least on that basis. The rejections of claims 4 and 10 should, therefore, be withdrawn.

Further, the applicant agrees with the Examiner's admission that Bruneau does not teach a decorative or descriptive panel, as is claimed in both claims 4 and 10. In addition, the applicant can find nowhere in this 35 U.S.C. § 103(a) rejection of claims 4 and 10 where the Examiner addresses the further limitations of claims 4 and 10 that the decorative or descriptive panels be removably attached to the folding panels. After studying the Dykes reference, the applicant can find nowhere in Dykes where Dykes teaches removably attached panels. For at least these reasons, claims 4 and 10 are patentable over Bruneau in view of Dykes.

As stated above, independent claim 7, from which claim 10 depends, includes the limitations of a first plurality of folding panels and a second plurality of folding panels. The Examiner fails to address these limitations of claim 10 and the applicant finds that neither Bruneau nor Dykes include these limitations. Claim 10 is at least patentable over Bruneau in view of Dykes on that basis.

Therefore, claims 4 and 10 of the present application are patentable over Bruneau in view of Dykes, as the inventions defined thereby are not suggested within either Bruneau or Dykes, nor is there any suggestion or motivation to modify or combine these references' teachings in order to teach or suggest the claimed

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limitations, as required by 35 U.S.C. § 103. Consequently, the applicant respectfully submits that claims 4 and 10 should be allowed over Bruneau in view of Dykes. Accordingly, favorable reconsideration of claims 4 and 10 are respectfully requested.

3. The Examiner has rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Bruneau in view of Thun et al. (U.S. 3,811,489, hereinafter Thun). The Examiner admits that while Bruneau does not set forth the use of a spring, Thun et al. disclose a folding panel assembly 20, 21 comprising spring 58 biased hinges 29, wherein, to incorporate this teaching into the folding panel assembly of Bruneau for the purpose of facilitating the movement of the panels would have been obvious to one of ordinary skill in the art.

Applicant, however, asserts that since claim 14 depends indirectly from claim 7, then claim 14 is patentable at least on that basis.

As stated above, independent claim 7, from which claim 14 depends, includes the limitations of a first plurality of folding panels and a second plurality of folding panels. The Examiner fails to address these limitations of claim 14 and the applicant finds that neither Bruneau nor Dykes include these limitations. Claim 14 is at least patentable over Bruneau in view of Dykes on that basis.

In addition, after studying the Thun reference, applicant finds that the spring 58 and biased hinges 29 of Thun are only disposed between panels 25 and 26, and not between a first panel and a vertical frame as required by claim 13 (i.e., comprising at least one hinge disposed between each of the frames and its respective first panel),

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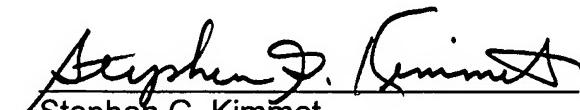
from which claim 14 depends. For all of the above reasons, the rejection of claim 14 should, therefore, be withdrawn. Consequently, the applicant respectfully submits that claim 14 of the claimed invention should be allowed over Bruneau in view of Thun. Accordingly, favorable reconsideration of claim 14 is respectfully requested.

### CONCLUSION

For all the reasons described in the preceding paragraphs, the applicant respectfully submits that the present application is now in condition for allowance. Accordingly, a timely action to that end is courteously solicited.

If the Examiner has any remaining questions or concerns, or would prefer claim language different from that included herein, the favor of a telephone call to the applicant's attorneys is requested.

Respectfully submitted,



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